

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOSE MANUEL ZALDIVAR-FUENTES,	)	CASE NO. 4:10cv842
	)	
Plaintiff,	)	
	)	
vs.	)	JUDGE SARA LIOI
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	<b><u>MEMORANDUM OPINION</u></b>
	)	<b><u>AND ORDER</u></b>
	)	

Before the Court is the report and recommendation of the Magistrate Judge in the above-entitled action. Under the relevant statute:

[. . .] Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C). In this case, the fourteen-day period has elapsed and no objections have been filed nor has any extension of time been sought.<sup>1</sup> The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's report and recommendation and adopts the same. Accordingly, Defendant's motion to dismiss (Doc. 11) is GRANTED and

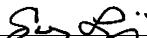
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<sup>1</sup> The Magistrate Judge's Report and Recommendation ("R&R") in this matter was filed June 22, 2011, and included an explanation that any objections would be due within fourteen days of Plaintiff's receipt of the R&R. The docket reflects that the R&R was mailed to Plaintiff on the same day that it was filed.

Plaintiff's complaint is DISMISSED without prejudice for failure to exhaust administrative remedies.

**IT IS SO ORDERED.**

Dated: July 20, 2011

  
**HONORABLE SARA LIOI**  
**UNITED STATES DISTRICT JUDGE**

**IT IS SO ORDERED.**

DATE: July 20, 2011

*/s/ Sara Lioi*  
Hon. Sara Lioi  
UNITED STATES DISTRICT JUDGE